

HOUSE SUBSTITUTE

FOR

HOUSE BILL NO. 481

AN ACT

2 To amend chapter 33, RSMo, by adding thereto
3 one new section relating to public funds.

4

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF MISSOURI,
6 AS FOLLOWS:

7 Section A. Chapter 33, RSMo, is amended by adding thereto
8 one new section, to be known as section 33.900, to read as
9 follows:

10 33.900. 1. As used in this section, the following terms
11 shall mean:

12 (1) "Abortion services", include performing, inducing or
13 assisting with abortions as defined in section 188.015, RSMo, or
14 encouraging patients to have abortions, or referring patients for
15 abortions, not necessary to save the life of the mother, or
16 development of drugs, chemicals or devices intended to be used to
17 induce an abortion;

18 (2) "Child", a human being recognized as a minor pursuant
19 to the laws of this state, including, if in vivo, an unborn child
20 as defined in section 188.015, RSMo, and if in vitro, a human
21 being at any of the stages of biological development of an unborn
22 child from conception or inception onward;

1 (3) "Conception", the same meaning as such term is defined
2 in section 188.015, RSMo;

3 (4) "Facilities and administrative costs", those costs that
4 are incurred for common or joint objectives and therefore cannot
5 be identified readily and specifically with a particular research
6 project or any other institutional activity;

7 (5) "Health and social services program", any activity,
8 program or the furnishing of services for the purpose of
9 preventing, supporting, alleviating, ameliorating, treating,
10 curing or healing any human condition, illness, injury or
11 disability, or to safeguard the health of people and ensure the
12 prevention of any type of disease, infection or injury, the
13 promotion of specific lifestyle, hygiene and sanitary conditions,
14 or to assist persons to provide for themselves and others and to
15 assist those experiencing any social or physical condition or
16 disadvantage, and including the furnishing of any sort of
17 physical, health, medical or dental assessment, care, counseling,
18 education or treatment, whether to individuals or groups of
19 individuals; except that, health and social services program
20 shall not include a research project;

21 (6) "Human cloning", the creation of a human being by any
22 means other than by the fertilization of an oocyte of a human
23 female by a sperm of a human male;

24 (7) "Independent affiliate", an entity that provides

1 abortion services that is affiliated with an entity that does not
2 provide abortion services, is separately incorporated from the
3 entity that does not provide abortion services, does not receive
4 or share a direct or indirect economic or marketing benefit from
5 such affiliation with the entity that does not provide abortion
6 services, and does not share any of the following with the entity
7 that does not provide abortion services, regardless of whether
8 reimbursement is made for any expenditures associated with
9 sharing the following:

10 (a) The same name or similar names;

11 (b) Medical or nonmedical facilities, including but not
12 limited to business offices, laboratories, treatment,
13 consultation, examination and waiting rooms;

14 (c) Expenses;

15 (d) Employee wages or salaries; or

16 (e) Equipment or supplies, including but not limited to
17 computers, telephone systems, telecommunications equipment, and
18 office and medical supplies;

19 (8) "Nondirective pregnancy counseling", counseling related
20 to pregnancy that does not include abortion services, but may
21 include providing patients with information regarding providers
22 of health care and social service programs, or otherwise
23 providing information required by federal law;

24 (9) "Prohibited human research", research in a research

1 project in which there is the taking or utilization of the
2 organs, tissue or cellular material of:

3 (a) A deceased child, unless consent is given by the
4 parents in the manner provided in sections 194.210 to 194.290,
5 RSMo, relating to anatomical gifts, and neither parent caused the
6 death of such child or consented to another person causing the
7 death of such child;

8 (b) A living child, when the intended or likely result of
9 such taking or utilization is to kill or cause harm to the
10 health, safety or welfare of such child, or when the purpose is
11 to target such child for possible destruction in the future;

12 (10) "Public funds", shall include:

13 (a) Any funds received or controlled by the state of
14 Missouri or any official, department, division, agency or
15 political subdivision thereof, including but not limited to funds
16 derived from federal, state or local taxes, gifts or grants from
17 any source, settlements of any claims or causes of action, public
18 or private, bond proceeds, federal grants or payments, or
19 intergovernmental transfers;

20 (b) Any funds received or controlled by any official,
21 department, division or agency of state government or political
22 subdivision thereof, or granted or distributed to any other
23 person or entity, pursuant to appropriation by the general
24 assembly or the governing body of any political subdivision of

1 this state;

2 (11) "Research project", research proposed to be funded by
3 an award of public funds conducted under the auspices of the
4 entity or entities that applied for and received such award,
5 regardless of whether the research is funded in whole or part by
6 such award. Such research shall include basic research, including
7 the discovery of new knowledge, translational research including
8 translating knowledge into a usable form, and developmental
9 research and clinical research including but not limited to
10 health research in human development and aging, cancer,
11 endocrine, cardiovascular, neurological, pulmonary and infectious
12 disease.

13 2. Public funds shall not be expended, paid or granted to
14 or on behalf of an existing or proposed health and social
15 services program to directly or indirectly subsidize abortion
16 services. To ensure that support is not lent in any manner to
17 abortion services, and to ensure that an entity that provides
18 abortion services does not receive a direct or indirect economic
19 or marketing benefit from public funds expended in connection
20 with any health and social services program:

21 (1) Public funds shall not be expended, paid or granted in
22 connection with any health and social services program to an
23 entity that provides abortion services;

24 (2) An entity that does not provide abortion services may

1 receive public funds in connection with any health and social
2 services program if affiliated with an entity that provides
3 abortion services, only if the affiliated entity that provides
4 abortion services is an independent affiliate;

5 (3) An entity that provides counseling to pregnant persons
6 in connection with a health and social services program receiving
7 public funds shall only provide nondirective pregnancy counseling
8 unless otherwise required pursuant to subsection 3 of this
9 section;

10 (4) An entity that receives public funds in connection with
11 any health and social services program shall not display or
12 distribute marketing materials promoting abortion services;

13 (5) An entity that receives public funds in connection with
14 any health and social services program shall maintain financial
15 records that demonstrate strict compliance with this subsection;

16 (6) An independent audit of any entity that receives public
17 funds in connection with any health and social services program
18 shall be conducted at least once every three years, or sooner if
19 required by any other provision of law or if directed by the
20 governmental entity expending, paying or granting the public
21 funds, to ensure compliance with this subsection. If the
22 recipient of the public funds is an affiliate of an entity that
23 provides abortion services, an independent audit to ensure
24 compliance with this subsection shall be conducted at least

1 annually. The audit shall be conducted by:

2 (a) The state auditor if allowed by law; or

3 (b) An independent auditing firm retained by the
4 governmental entity expending, paying or granting the public
5 funds; or

6 (c) An independent auditing firm approved by the
7 governmental entity expending, paying or granting the public
8 funds and retained by the entity receiving public funds.

9 3. Notwithstanding the provisions of subsection 2 of this
10 section, any entity:

11 (1) Eligible to receive reimbursements pursuant to Title
12 XIX of the federal Social Security Act (42 U.S.C. Section 1396,
13 et seq.) may be reimbursed for services it has performed, for
14 which the payment to such entity is otherwise prohibited pursuant
15 to subsection 2 of this section, if reimbursement for such
16 services is required pursuant to the federal act and the refusal
17 to reimburse for such required services will result in the
18 withholding of federal Medicaid funds to the state of Missouri.
19 No state Medicaid plan shall be adopted by the state or submitted
20 to the federal government that includes services that violate the
21 provisions of subsection 2 of this section and are not mandated
22 for state Medicaid plans by the federal Medicaid law, Title XIX
23 of the Social Security Act, as amended;

24 (2) Receiving federal funds pursuant to Title X of the

1 federal Public Health Services Act may perform services which are
2 required pursuant to the federal act, but otherwise prohibited
3 pursuant to subsection 2 of this section if:

4 (a) Specifically directed by the United States Secretary of
5 Health and Human Services to perform such services by written
6 order directed to the organization; and

7 (b) Such order is final and no longer subject to appeal;
8 and

9 (c) The refusal to perform such required services will
10 result in the withholding of federal funds to said organization.

11 Federal statutory or regulatory provisions or guidelines of
12 general application shall not constitute such written order as
13 described herein.

14 4. Restrictions of specific applicability contained in the
15 statutory laws of this state regarding the use of public funds
16 for abortion services shall take precedence over the restrictions
17 of general applicability contained in subsection 2 of this
18 section and sections 188.200 to 188.220, RSMo.

19 5. Public funds shall not be expended, paid, or granted to
20 or on behalf of an existing or proposed research project that
21 involves abortion services, human cloning, or prohibited human
22 research. A research project that receives an award of public
23 funds shall not share costs with another research project,

1 person, or entity not eligible to receive public funds pursuant
2 to this subsection; provided that a research project that
3 receives an award of public funds may pay a pro rata share of
4 facilities and administrative costs, determined in the award of
5 public funds, according to standards which ensure that public
6 funds do not in any way subsidize facilities and administrative
7 costs of other research projects, persons, or entities not
8 eligible to receive public funds pursuant to this subsection.

9 The application for an award of public funds shall set forth the
10 proposed rates of pro rata cost reimbursement and shall provide
11 supporting data and rationale for such rates. All applicants for
12 and recipients of awards of public funds shall comply with the
13 cost accounting principles set forth in Part 9905 of Title 48 of
14 the Code of Federal Regulations, or successor regulations, in
15 connection with the application for and administration of the
16 research project. All moneys derived from an award of public
17 funds shall be expended only by checks, drafts, or electronic
18 transfers using a separate accounting process maintained for each
19 research project. No moneys derived from an award of public
20 funds shall be used to cover costs for any other research project
21 or for any other person or entity. No moneys derived from an
22 award of public funds shall be passed through to any other
23 research project, person, or entity unless included in the
24 original application for the award of public funds or in

1 subsequent amendments or requests to use separate subcontractors.

2 A research project that receives an award of public funds shall
3 maintain financial records that demonstrate strict compliance
4 with this subsection. Any audit conducted pursuant to the
5 provisions of any grant or contract awarding public funds shall
6 also certify whether there is compliance with this subsection and
7 shall note any noncompliance as a material audit finding.

8 6. The provisions of this section shall inure to the
9 benefit of all residents of this state. Any taxpayer of this
10 state or its political subdivisions shall have standing to bring
11 suit in any circuit court with competent jurisdiction against the
12 state of Missouri or any official, department, division, agency
13 or political subdivision of the state, and any recipient of
14 public funds who is in violation of this section.

15 7. This section shall not be construed to permit or make
16 lawful any conduct that is otherwise unlawful pursuant to the
17 laws of this state.